

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

NOBLE ROMAN’S, INC.,)	
)	
Plaintiff,)	
)	
v.)	No. 1:14-cv-00919-TWP-TAB
)	
UNION VALLEY TIGER MART,)	
ASIZ ASEFI, and JARROD URBAN,)	
)	
Defendants.)	

ORDER ON MOTION TO DISMISS

This matter is before the Court on a Motion to Dismiss filed pursuant to Federal Rules of Civil Procedure 12(b)(2), (3), and (6) by Defendant Asiz Asefi (“Mr. Asefi”) ([Filing No. 5](#)). Following a dispute regarding the payment of royalties under a franchise agreement, Plaintiff Noble Roman’s, Inc. sued Mr. Asefi, Union Valley Tiger Mart, and Shelly Urban for breach of contract, violation of the Lanham Act, replevin, declaratory judgment, and fraud/conversion on June 5, 2014 ([Filing No. 1](#)). On June 24, 2014, Mr. Asefi moved to dismiss the Complaint based on lack of personal jurisdiction, improper venue, and the failure to state a claim because he had never entered into a written franchise agreement with Noble Roman’s ([Filing No. 5](#)). On July 10, 2014, Noble Roman’s filed a response in opposition to the Motion to Dismiss ([Filing No. 9](#)).

On September 5, 2014, Defendant Shelly Urban (“Ms. Urban”) filed a motion to dismiss under Rules 12(b)(6) and (2) because she was improperly named as a defendant in this action. After conducting some investigation and research, Noble Roman’s filed a voluntary dismissal of its claims against Ms. Urban on October 24, 2014. That same day, Noble Roman’s filed a motion for leave to amend its Complaint to revise its claims and to add Defendant Jarrod Urban. Both motion for voluntary dismissal of Ms. Urban ([Filing No. 26](#)) and the motion for leave to amend


the Complaint ([Filing No. 27](#)) were granted. As of November 12, 2014, the operative pleading in this matter is Noble Roman's Amended Complaint ([Filing No. 28](#)).

The Amended Complaint asserts the following claims against Mr. Asefi, Union Valley Tiger Mart, and Jarrod Urban: (1) breach of contract, (2) violation of the Lanham Act, (3) deception under the Indiana Crime Victims Relief Act, (4) replevin, (5) account, (6) unjust enrichment, and (7) injunctive relief. The Amended Complaint alleges additional factual allegations in support of these claims. As part of its factual allegations, the Amended Complaint also incorporates the franchise agreement between Noble Roman's and Union Valley Tiger Mart and a demand letter from Noble Roman's to Mr. Asefi.

The briefing for Mr. Asefi's Motion to Dismiss—based upon the original Complaint—was completed four months before the Amended Complaint was filed. The factual allegations and the claims asserted in the Amended Complaint are significantly different from those in the original Complaint. Therefore, the Court **DENIES** as moot Mr. Asefi's Motion to Dismiss ([Filing No. 5](#)), with instructions that Mr. Asefi may file a new motion to dismiss based upon the Amended Complaint within **thirty (30) days** of this Order.

SO ORDERED.

Date: 3/4/2015


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

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